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Attorneys for Use-Plaintiff Spenard Builders Supply, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA, AT ANCHORAGE

UNITED STATES OF AMERICA for the
use and benefit of SPENARD BUILDERS
SUPPLY, INC.,

Use-Plaintiff,

vs.

ST. PAUL FIRE AND MARINE
INSURANCE COMPANY and its Payment
Bond No. TC6016,

Defendant.

Case No. 3:05-cv-00287-RRB

**SCHEDULING AND PLANNING
CONFERENCE REPORT**

1. **Meeting.** In accordance with F.R.Civ.P. 26(f), a meeting was held on April 14, 2006 and was attended by:

Grant E. Watts Attorney for Use-Plaintiff Spenard Builders Supply, Inc.

Frank A. Pfiffner Attorney for Defendant St. Paul Fire and Marine Insurance
Company and Its Payment Bond No. TC6016

The parties recommend the following:

2. **Pre-Discovery Disclosures.** The information required by F.R.Civ.P. 26(a)(1):

☐ have been exchanged by the parties

☒ will be exchanged by the parties by May 30, 2006.

Proposed changes to disclosure requirements:

Preliminary witness lists.

☐ have been exchanged by the parties

☒ will be exchanged by the parties by June 15, 2006.

3. **Contested Issues of Fact and Law.** Preliminarily, the parties expect the following issues of fact and/or law to be presented to the court at trial in this matter:

Whether Use-Plaintiff is entitled to recover damages from Defendant based on its Miller Act claim, and if so, in what amount?

Whether Defendant's defenses bar or limit Use-Plaintiff's claims, and/or bar or limit any damages sought by Use-Plaintiff in the action.

Whether the Miller Act payment bond action should be stayed based on a motion filed by Defendant (said motion is premised on an alleged contractual provision regarding arbitration between SBS and Strand Hunt Construction, Inc.).

4. **Discovery Plan.** The parties jointly propose to the court the following discovery plan.

A. Discovery will be needed on the following issues:

Liability and damages and defenses (including but not limited to breach, and offsets, and whether the action should be stayed).

B. All discovery commenced in time to be completed by November 15, 2006 ("discovery close date").

C. Limitations on Discovery.

1. Interrogatories

☒ No change from F.R.Civ.P. 33(a)

☐ Maximum of _____ by each party to any other party.

Responses due in _____ days.

2. Requests for Admission.

☒ No change from F.R.Civ.P. 36(a)

☐ Maximum of _____ requests.

Responses due in _____ days.

3. Depositions.

☒ No change from F.R.Civ.P. 36(a), (d).

☐ Maximum of _____ depositions by each party.

Depositions not to exceed _____ hours unless agreed to by all parties.

D. Reports from retained experts.

☒ Not later than 90 days before the close of discovery subject to F.R.Civ.P. 26(a)(2)(C).

☒ Reports due:

From Plaintiff (90 days prior to the close of discovery)

From Defendant (90 days prior to the close of discovery)

E. Supplementation of disclosures and discovery responses are to be made:

☒ Periodically at 60-day intervals from the entry of scheduling and planning order.

☐ As new information is acquired, but not later than 60 days before the close of discovery.

F. A final witness list, disclosing all lay and expert witnesses whom a party may wish to call at trial, will be due:

☐ 45 days prior to the close of discovery.

☒ Not later than 30 days after the close of discovery.

5. **Pretrial Motions.**

☒ No change from D.Ak. LR 16.1(c).

The following changes to D.Ak. LR 16.1(c). [Check and complete all that apply].

☐ Motions to amend pleadings or add parties to be filed not later than N/A.

☐ Motions under the discovery rules must be filed not later than N/A.

☐ Motions in limine and dispositive motions must be filed not later than N/A.

6. **Other Provisions:**

A. ☒ The parties do not request a conference with the court before the entry of the scheduling order.

☐ The parties request a scheduling conference with the court on the following issue(s):

B. Alternative Dispute Resolution [D.Ak. LR 16.2]

☒ This matter is not considered a candidate for court-annexed alternative dispute resolution.

☐ The parties will file a request for alternative dispute resolution not later than _____.

☐ Mediation ☐ Early Neutral Evaluation

C. The parties ☐ do ☒ not consent to trial before a magistrate judge.

D. Compliance with the Disclosure Requirements of F.R.Civ.P. 7.1

☒ All parties will comply if required.

☐ Compliance not required by any party.

7. **Trial.**

A. The matter will be ready for trial:

☒ 45 days after the discovery close date.

☐ not later than May 1, 2007.

B. This matter is expected to take 6 days to try.

C. Jury Demanded ☒ Yes ☐ No

Right to jury trial disputed? ☐ Yes ☒ No

HOLMES WEDDLE & BARCOTT, P.C.
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Spenard Builders Source, Inc.

Dated: April 26, 2006

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Dated: April 26, 2006

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